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## FISCAL IMPACT REPORT

ORIGINAL DATE 3/5/2007

SPONSOR Stewart LAST UPDATED 3/8/2007 HM 65/a HHGAC

SHORT TITLE Study Homeowners' Associations SB \_\_\_\_\_

ANALYST McOlash

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
	NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

### SUMMARY

#### Synopsis of HHGAC Amendment

The proposed amendment by the House Health and Government Affairs Committee adds the following to House Memorial 65:

Homeowners' associations are distinguished from other community associations, including neighborhood associations, by their ability to assess dues, to impose regulations on things such as a home's appearance and to levy fines on homeowners who violate those regulations.

#### Synopsis of Original Bill

House Memorial 65 resolves that the Legislative Council be requested to direct the appropriate interim committee to study homeowners' associations in New Mexico, including the reviewing of state statutes relating to homeowners' associations; reviewing homeowner complaints, lawsuits or other controversies relating to homeowners' associations in New Mexico; and researching responses to similar problems of homeowners' associations in other states.

House Memorial 65 also resolves that copies of this memorial be transmitted to the co-chairs of the New Mexico Legislative Council.

## FISCAL IMPLICATIONS

NFI

## SIGNIFICANT ISSUES

House Memorial 65 recognizes the primary purpose of a homeowners' association is to manage a neighborhood's common areas, such as roads, parks and pools and are distinguished from other community associations, including neighborhood associations, by their ability to assess dues, to impose regulations on things such as a home's appearance and to levy fines on homeowners who violate those regulations

The memorial also recognizes that some homeowners' associations have assumed much broader powers and as homeowners' associations become more prevalent in New Mexico, New Mexicans are entitled to fair covenants, conditions and restrictions when they purchase property governed by a homeowners' association.

According to Wikipedia, the fastest growing form of housing in the United States today are common-interest developments, a category that includes planned-unit developments of single-family homes, condominiums, and cooperative apartments. Before the first unit is sold in one of these developments, the developer records restrictive covenants on all of the properties. Restrictive covenants limit the property rights of individual homeowners, by contractual agreement.

Since 1914 builders of common interest developments and firms and companies that sell services to homeowner associations have said that deed restrictions protect property values — a rationale that remains the most common justification for the loss of freedom inherent in a development run under a regime of restrictive covenants. For example, these covenants may authorize the board or a designated committee to approve the color a house is painted, or the types of flowers and shrubberies planted, and even regulate the conduct of homeowners. Restrictive covenants run with the land, meaning that they bind subsequent purchasers.

Since 1964, homeowner associations have become increasingly common in the USA. The Community Associations Institute trade association estimated that HOAs governed 23 million American homes and 57 million residents in 2006.

Like a city, associations provide services, regulate activities, levy taxes (assessments), and impose fines. Unlike a municipal government, however, most homeowners associations are incorporated as non-profit corporations, and are therefore governed by a board of directors. The board carries out tasks which would otherwise be performed by local governments or require private legal action under civil law. Boards appoint corporate officers, and may create subcommittees, such as "architectural control committees", pool committees and neighborhood watch committees.

BM/mt